

House File 13 - Introduced

HOUSE FILE _____
BY GASKILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to confinement feeding operation structures by
2 providing separation distance requirements for visitor
3 attractions and cities, and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1284HH 83
6 da/nh/5

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1 1 Section 1. Section 459.102, Code 2009, is amended by
1 2 adding the following new subsections:
1 3 NEW SUBSECTION. 35A. "Museum" means an institution
1 4 located in this state which is operated by a nonprofit
1 5 corporation or a public agency, primarily for educational,
1 6 scientific, historic preservation, or aesthetic purposes, and
1 7 which owns or borrows and cares for exhibits, studies,
1 8 archives, or other real or personal property, or catalogs such
1 9 property. "Museum" includes but is not limited to historical
1 10 societies, historic sites or landmarks, property listed in the
1 11 national register of historic places, parks, monuments, and
1 12 libraries.

1 13 NEW SUBSECTION. 47A. "Visitor attraction" means any of
1 14 the following:
1 15 a. A portion of real estate located in this state having
1 16 unique archaeological, cultural, historical, recreational,
1 17 scenic, or scientific significance, and that tends to attract
1 18 the visiting public.

1 19 b. A museum.
1 20 Sec. 2. Section 459.202, Code 2009, is amended by adding
1 21 the following new subsection:

1 22 NEW SUBSECTION. 5A. Except as provided in sections
1 23 459.203, 459.205, and 459.206, this subsection applies to
1 24 confinement feeding operation structures constructed on or
1 25 after the effective date of this Act.

1 26 a. A confinement feeding operation structure shall not be
1 27 constructed or expanded within two miles from the corporate
1 28 limits of a city.

1 29 b. A confinement feeding operation structure shall not be
1 30 constructed or expanded within three miles from a visitor
1 31 attraction.

1 32 Sec. 3. Section 459.203, subsection 1, Code 2009, is
1 33 amended to read as follows:

1 34 1. a. For a confinement feeding operation constructed
1 35 prior to January 1, 1999, any construction or expansion of a
2 1 confinement feeding operation structure complies with the
2 2 distance requirements applying to that structure as provided
2 3 in section 459.202, subsections 1 and 3. However,
2 4 notwithstanding section 459.202, subsection 3, the confinement
2 5 feeding operation structure shall not be constructed or
2 6 expanded on or after the effective date of this Act, if it
2 7 would be closer to the corporate limits of a city than
2 8 provided in section 459.202, subsection 5A.

2 9 b. For a confinement feeding operation constructed on or
2 10 after January 1, 1999, but prior to March 1, 2003, any
2 11 construction or expansion of a confinement feeding operation
2 12 structure complies with the distance requirements applying to
2 13 that structure as provided in section 459.202, subsections 2
2 14 and 3. However, notwithstanding section 459.202, subsection
2 15 3, the confinement feeding operation structure shall not be
2 16 constructed or expanded on or after the effective date of this
2 17 Act, if it would be closer to the corporate limits of a city
2 18 than provided in section 459.202, subsection 5A.

2 19 c. For a confinement feeding operation constructed on or

2 20 after March 1, 2003, any construction or expansion of a
2 21 confinement feeding operation structure complies with the
2 22 distance requirements applying to that structure as provided
2 23 in section 459.202, subsections 4 and 5. However,
2 24 notwithstanding section 459.202, subsection 5, the confinement
2 25 feeding operation structure shall not be constructed or
2 26 expanded on or after the effective date of this Act, if it
2 27 would be closer to the corporate limits of a city than
2 28 provided in subsection 5A.

2 29 Sec. 4. Section 459.204, Code 2009, is amended to read as
2 30 follows:

2 31 459.204 LIQUID MANURE APPLICATION == SEPARATION DISTANCE.

2 32 Except as provided in section 459.205, a person shall not
2 33 apply liquid manure from a confinement feeding operation on
2 34 land located within seven hundred fifty feet from a residence
2 35 not owned by the titleholder of the land, a commercial
3 1 enterprise, a bona fide religious institution, an educational
3 2 institution, ~~or~~ a public use area, a visitor attraction, or
3 3 the corporate limits of a city.

3 4 Sec. 5. Section 459.205, subsection 2, paragraph a, Code
3 5 2009, is amended to read as follows:

3 6 a. A confinement feeding operation structure which is
3 7 constructed or expanded, if the titleholder of the land
3 8 benefiting from the distance separation requirement executes a
3 9 written waiver with the titleholder of the land where the
3 10 structure is located. If a confinement feeding operation
3 11 structure is constructed or expanded within the separation
3 12 distance required between a confinement feeding operation
3 13 structure and a public thoroughfare as required pursuant to
3 14 section 459.202, the state or a political subdivision
3 15 constructing or maintaining the public thoroughfare benefiting
3 16 from the distance separation requirement may execute a written
3 17 waiver with the titleholder of the land where the structure is
3 18 located. If a confinement feeding operation structure is
3 19 constructed or expanded within the separation distance
3 20 required between a confinement feeding operation structure and
3 21 the corporate limits of a city as required pursuant to section
3 22 459.202, the city benefiting from the separation distance
3 23 requirement must execute a waiver with the titleholder of the
3 24 land where the structure is located. The waiver executed by
3 25 the city shall be independent of any waiver required to be
3 26 executed by the titleholder of land benefited from a
3 27 separation distance requirement which is located within the
3 28 corporate limits of the city. The confinement feeding
3 29 operation structure shall be constructed or expanded under
3 30 such terms and conditions that the parties negotiate.

3 31 Sec. 6. Section 459.205, subsection 3, is amended to read
3 32 as follows:

3 33 3. A confinement feeding operation structure which is
3 34 constructed or expanded within any distance from a residence,
3 35 educational institution, commercial enterprise, bona fide
4 1 religious institution, city, ~~or~~ public use area, or visitor
4 2 attraction if the residence, educational institution,
4 3 commercial enterprise, ~~or~~ bona fide religious institution, or
4 4 visitor attraction was constructed or expanded, or the
4 5 boundaries of the city or public use area were expanded, after
4 6 the date that the confinement feeding operation was
4 7 established. The date the confinement feeding operation was
4 8 established is the date on which the confinement feeding
4 9 operation commenced operating. A change in ownership or
4 10 expansion of the confinement feeding operation shall not
4 11 change the established date of operation.

4 12 Sec. 7. EFFECTIVE DATE. This Act, being deemed of
4 13 immediate importance, takes effect upon enactment.

4 14 EXPLANATION

4 15 CONSTRUCTION. This bill provides that a confinement
4 16 feeding operation structure (i.e., a confinement building,
4 17 manure storage structure, or egg washwater storage structure)
4 18 cannot be constructed within three miles of a visitor
4 19 attraction or two miles from the corporate limits of a city.
4 20 A "visitor attraction" means a portion of real estate having
4 21 unique archaeological, cultural, historical, recreational,
4 22 scenic, or scientific significance, and that tends to attract
4 23 the visiting public; or a museum. Cities and visitor
4 24 attractions are added to a list of other benefited objects or
4 25 locations, including residences, educational institutions,
4 26 commercial enterprises, bona fide religious institutions,
4 27 public use areas, and public thoroughfares.

4 28 SEPARATION DISTANCE REQUIREMENTS. Specifically, the bill
4 29 amends Code section 459.202 which currently establishes a
4 30 number of separation distances between confinement feeding

4 31 operation structures and other benefited objects or locations.
4 32 There are special separation distance requirements for
4 33 commercial enterprises, bona fide religious institutions, and
4 34 educational institutions located within and outside the
4 35 corporate limits of a city. In addition, different separation
5 1 distance requirements apply based on: (1) the date that the
5 2 confinement feeding operation was first established (on or
5 3 after May 31, 1995, but prior to January 1, 1999; on or after
5 4 January 1, 1999, but prior to March 1, 2003; and on and after
5 5 March 1, 2003); (2) the size of the confinement feeding
5 6 operation; (3) the type of confinement feeding operation being
5 7 constructed (for bovine or for other species); and (4) the
5 8 type of object or location benefiting from the separation
5 9 distance (e.g., a residence or a public use area). The bill
5 10 provides the new separation distance requirements for
5 11 confinement feeding operations constructed or expanded on or
5 12 after the effective date of the bill. It applies to all
5 13 confinement feeding operations, subject to current exceptions.

5 14 EXCEPTION FOR PRIOR ESTABLISHED OPERATIONS. The bill
5 15 amends Code section 459.203 which provides that an existing
5 16 confinement feeding operation may continue to exist even if it
5 17 fails to meet the separation distance requirements applicable
5 18 to its date of establishment, and under certain circumstances
5 19 may expand based on those separation distance requirements
5 20 (e.g., the size of the operation when it was established).
5 21 The same exceptions that apply to those benefited objects or
5 22 locations would also apply to a visitor attraction and the
5 23 corporate limits of a city. However, the bill provides that
5 24 regardless of the date of an operation's establishment, it
5 25 could not expand within the two-mile limit for cities.

5 26 EXCEPTIONS BASED ON THE SIZE OF THE OPERATION. The bill
5 27 amends Code section 459.205 which exempts confinement feeding
5 28 operation structures that are part of a small animal feeding
5 29 operation. This exception would apply to allow a small animal
5 30 feeding operation to be established or expanded within the
5 31 separation distance requirements applicable to corporate city
5 32 limits and visitor attractions.

5 33 EXCEPTION BASED ON WAIVER BY A TITLEHOLDER. The bill
5 34 amends Code section 459.205 which allows the titleholder of
5 35 land where a benefited object or location is sited to execute
6 1 a waiver allowing the confinement feeding operation to be
6 2 established or expanded within the separation distances
6 3 applicable under Code section 459.202. This includes the
6 4 owner of a residence, commercial enterprise, bona fide
6 5 religious institution, educational institution, public use
6 6 area, or public thoroughfare. The bill would allow a
6 7 titleholder of land where a visitor attraction is sited to
6 8 execute such a waiver. The bill would also allow a city the
6 9 right to execute a waiver, but would not affect the separation
6 10 distance required for benefited objects or locations within
6 11 the city limits (e.g., the owner of a nearby residence within
6 12 the city limits would also have to execute a waiver).

6 13 LIQUID MANURE APPLICATION. Code section 459.204 prohibits
6 14 a person from applying liquid manure from a confinement
6 15 feeding operation within 750 feet from a residence (not owned
6 16 by the titleholder of the land), a commercial enterprise, a
6 17 bona fide religious institution, an educational institution,
6 18 or a public use area. The bill provides that the same
6 19 restrictions apply to a city's corporate limits and a visitor
6 20 attraction.

6 21 EFFECTIVE DATE. The bill takes effect upon enactment.

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